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Patent

Attorney's Docket No. 016660-116

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)
)
Ki Cheong YEUNG) Group Art Unit: 3749
)
Application No.: 10/084,461) Examiner: Kenneth Rinehart
)
Filed: February 28, 2002) Confirmation No.: 4990
)
For: AN IMPROVEMENT ON A HAIR)
 DRYER)

REQUEST FOR RECONSIDERATION

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated October 17, 2003, Applicant respectfully requests reconsideration and withdrawal of the rejections of the claims.

Claims 25 and 26 were rejected under 35 U.S.C. § 102, as being anticipated by the Russo patent. Claim 25 recites an accessory for use with a hair dryer that comprises a body defining a passageway with first and second openings. A connector for connecting the accessory to the hair dryer is located at the first opening. A retainer retains a substrate in the passageway adjacent the second opening. Claim 26 contains similar recitations. Hence, each of claims 25 and 26 recites that the retainer is located away from the end of the body that is connected to the hair dryer. For example, as illustrated in the embodiments of Figures 3 and 4, the connector 29 for attaching the body 4 of the accessory

to the hair dryer is located at the right end of the passageway defined by the body (as view in the figure), whereas the substrate 18 is retained at the left end of the body.

In contrast, in the diffuser attachment disclosed in the Russo patent, the holding assembly 44 is located at the end of the cup member 34 which is *closest* to the point of attachment to the hair dryer. Hence, with reference to the language of claim 25, the holding assembly 44 is located adjacent the *first* opening, i.e., the opening at which the connector is located, rather than adjacent the second opening, as recited in the claim. For at least this reason, therefore, the Russo patent does not anticipate either of claims 25 or 26.

Clams 1, 2, 5, 6, 8, 14, 15, 19, 23, 24 and 27-30 were rejected under 35 U.S.C. § 103, on the grounds that they were considered to be unpatentable over the Russo patent. It is noted that pending claims 11-13 are not addressed in the body of the Office Action. Furthermore, the summary sheet of the Office Action indicates that these claims are both allowed and rejected. For purposes of this response, it is assumed that claims 11-13 were intended to be included within the rejection under 35 U.S.C. § 103. However, the Examiner is requested to clarify the status of these claims in his next communication.

The rejection under 35 U.S.C. § 103 alleges that the Russo patent discloses some of the claimed features of the rejected claims, and acknowledges that other features are not disclosed therein. For example, one of these latter features is a substrate that is made of a material selected from the group including ceramics and sponge. With respect to this subject matter, the Office Action alleges that it would be obvious to modify the Russo patent to provide a substrate made of these materials, "since applicant has not disclosed that

the material of the substrate solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill..." It is respectfully submitted that this statement does not form a proper basis for a rejection under 35 U.S.C. § 103. Rather, as stated in M.P.E.P. § 2143.03, "To establish prima facie obviousness of a claimed invention, *all* the claim limitations must be taught or suggested by the prior art." (Emphasis added). The rejection does not identify *any* prior art that teaches or suggests the use of a ceramic or sponge material as a substrate for receiving a scented medium in an accessory for a hair dryer. The only reference that is relied upon, namely the Russo patent, only discloses the use of a perforated box for holding a scented material. It does not disclose the use of a ceramic or sponge substrate for such a purpose. Since the Office Action does not cite any prior art that teaches or suggests a substrate made of a ceramic or sponge material that is retained in a hair dryer accessory, for the purpose of receiving a scented medium, a *prima facie* case of obviousness has not been established.


Furthermore, in contrast to the assertion set forth in the Office Action, Applicant has disclosed advantages associated with the use of these materials as a substrate. In particular, they offer the capability of being refilled (as opposed to being a disposable item), and they can withstand repeated heating and cooling, particularly at high temperatures, in the context of their use in connection with a hair dryer. See, for-example, page 6 of the specification.

Other distinguishing features of the invention are also recited in the rejected claims. In view of the foregoing, however, a discussion of each of these features is not believed to be necessary at this time.

For at least the foregoing reasons, therefore, it is respectfully submitted that the subject matter of the pending claims is neither anticipated, nor otherwise suggested, by the Russo patent. Reconsideration and withdrawal of the rejections based upon this patent are respectfully requested.

Respectfully submitted,

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